

Decision 02-11-011 November 7, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the East Bay Regional Park District for an order authorizing a pedestrian-bikeway crossing at grade of the DeAnza Regional Trail, at the track of the Union Pacific Railroad Company. (PUC No. B-57.3)

Application 01-12-029  
(Filed December 21, 2001)

**O P I N I O N**

**Summary**

The East Bay Regional Park District (EBRPD) requests authority to construct at grade a pedestrian-bikeway across the tracks of the Union Pacific Railroad Company (UPRR) in an unincorporated section of Contra Costa County, south of the town of Oakley, California.

The proposed crossing will consist of a 10-foot wide painted striped area within the widened pavement area of an existing private crossing located at the UPRR single mainline track at approximate Milepost 57.3. The new crossing will be approximately 30 feet wide and be protected by two Standard No. 9 automatic gates and flashers.

Separation of grades is unfeasible due to the close proximity of the Contra Costa Canal, a siphon under the track and obstructions created by a large diameter petroleum products pipeline situated in the railroad right-of-way.

The East Bay Regional Park District is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Section 21000 et. seq. On August 22, 2001, after

preparation and review of an Initial Study/ Environmental Assessment, the EBRPD filed a CEQA Notice of Exemption with the Contra Costa County Clerk.

The Commission is a responsible agency for this project under CEQA as amended, Public Resources Code Section 21000 et seq. We have reviewed the lead agency's Notice of Exemption and find that it is adequate for our decision-making purposes. We also find that this project is categorically exempt from the requirements of CEQA pursuant to Sections 15304 and 15061(b)(3).

The site of the proposed project has been inspected by the Commission's Consumer Protection and Safety Division (CPSD) Rail Crossings Engineering staff. The staff examined the need for and safety of the proposed crossing and recommends that the authority sought be granted.

Application 01-12-029 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to constructing a public highway across a railroad.

In Resolution ALJ 176-3079 dated January 9, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's CPSD recommends that this application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3079.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

#### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on December 27, 2001.
2. EBRPD requests authority, under Public Utilities Code Sections 1201 and 1202, to construct, at grade, a pedestrian-bikeway across the tracks of the UPRR, PUC Crossing Number 001B-57.3.
3. Public convenience and necessity will be served by creating hiking and biking opportunities along facilities which are free of motor vehicle traffic and noise.
4. EBRPD is the lead agency for this project under CEQA, as amended.
5. This project has been determined to be categorically exempt from the requirements of CEQA.

### **Conclusions of Law**

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

## **O R D E R**

### **IT IS ORDERED** that:

1. The East Bay Regional Park District (EBRPD) is authorized to construct, at grade, a bike trail across the tracks of the Union Pacific Railroad (UPRR) at the location shown on the plans amended to the application.
2. The warning devices for the crossing will consist of two CPUC Standard No. 9 automatic gates and flashers.
3. Clearances shall be in accordance with General Order (GO) 26-D.
4. Walkways shall conform to GO 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be

promptly restored to their original condition in the event of damage during construction.

5. Construction and maintenance costs shall be borne in accordance with an agreement entered into between the parties. A copy of the agreement shall be filed by EBRPD with the Commission's Consumer Protection and Safety Division (CPSD) prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Final construction plans, approved by EBRPD and UPRR, shall be filed by EBRPD with CPSD prior to commencing construction.

7. EBRPD shall inform the CPSD Rail Crossing Engineering Section in writing within 30 days of the date of completion of this project.

8. This authorization shall expire if not exercised within two (2) years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

9. This application is granted as set forth above.

10. Application 01-12-029 is closed.

This order becomes effective 30 days from today.

Dated November 7, 2002, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
CARL W. WOOD  
GEOFFREY F. BROWN  
MICHAEL R. PEEVEY  
Commissioners